

No. 6119-4Lab-71/19794.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of Messrs Panipat Cooperative Sugar Mills Ltd., Panipat.

**BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD.**

**Reference No. 16 of 1969**

*between*

**THE WORKMEN AND THE MANAGEMENT OF MESSRS PANIPAT COOPERATIVE  
SUGAR MILLS LTD., PANIPAT**

*Present.—*

Shri Madhu Sudan Saran Cowshish, for the workmen.  
Shri S.D. Sethi, for the management.

**AWARD**

The facts leading to this reference under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, may briefly be stated as under :—

The Panipat Cooperative Sugar Mills Ltd., Panipat started working in 1956. The employees of the mills raised a number of demands from time to time with regard to grades, increments, allotment of quarters, house-rent and some other facilities such as free electricity, furniture, etc. which were not all met by the management. The employees, therefore, served a demand notice dated 8th June, 1968 in respect of the various demands mentioned therein whereupon conciliation proceedings were initiated by the Labour-cum-Conciliation Officer, Karnal but without success. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana was pleased to refer the following two disputes for adjudication to this Tribunal,—*vide* order No. ID/KNL/12-B-69/9050-56, dated 27th March, 1969 :—

- (1) Whether Shri Chuni Lal Chhabra is entitled to the arrears on account of difference of pay from 1st November, 1960 to 31st May, 1967 and also difference of bonus for this period? If so, with what details?
- (2) Whether the allotment of houses in the Industrial Housing Colony made by the management is in order. If not, what procedure should be adopted?

On receipt of the reference, notices were given to the parties and they filed their respective statements. In the claim statement filed by Shri Tara Chand Anand, General Secretary, Karamchari Union Sugar Mills (Regd), 69, Affiliated with INTUC, Panipat on 21st July, 1969. The following averments were made :—

**Allotment of Quarters :—**

- (a) That the allotment of quarters in the Mill Colony has been made to the employees of this mills who own mostly their own residential houses or mostly they had already been allotted quarters in the State Labour Colony, Panipat or mostly residing within five miles radius of the Mill or mostly they are quite Junior in the Mills' services.
- (b) That under the Registered Standing Orders of this Institution in Para (U) regarding provision of accommodation, light, rent and water facilities shall be decided by collective bargaining between the Management and the Union.
- (c) That the allotment has been made in the irregular manner and the Union has never been consulted at any stage nor the justification at the time of allotment had at all been taken in view.
- (d) That the allotment when it is irregular rather illegal, this allotment deserves cancellation and the new allotment with the consultation of the Union may be made keeping in view the above irregularities and on deserving cases of the employees.

The fixation of rent of the quarter, electric charges, water facilities etc. be enforced with the consultation of the Union.

**Arrears of Shri Chuni Lal Chhabra, Head Cashier :**

- (i) That Shri Chuni Lal Chhabra, Head Cashier is in service of this Institution since 3rd May, 1956. He is serving the Institution since its start on the same very job with the same nature of duty and responsibility.

- (ii) That Shri Chuni Lal Chhabra remained claiming in his representation before the Management of this Institution taking in view while his service period into consideration fixing him in the clerical Grade II-A in the pay scale of Rs 200—8—240-EB-12—300 which has not been taken into consideration, with the result he had been fixed in the said grade at Rs 200 instead of Rs 232 on 1st November, 1960.
- (iii) That at last Shri Chuni Lal Chhabra, Head Cashier's, representation under the date 29th March, 1967 addressed to the Commissioner, Ambala Division and the Chairman, Administrative Board of Directors, Messrs. The Panipat Cooperative Sugar Mills Ltd., was favourably considered and decided.
- (iv) That the said learned Chairman agreed to the plea that when an employee in an ordinary routine in the Institution on the same very job with the same nature of duty and responsibility could easily attain his highest pay of his pay scale after completing ten years service in accordance with Sugar Wage Board Award; then Shri Chuni Lal Chhabra serving this Institution with the same nature of duty and responsibility who had completed his ten years' service is also entitled for the highest pay of his pay scale.
- (v) That the said decision of the said learned Chairman has been implemented from 1st June, 1967 i.e. Shri Chuni Lal who was in Clerical Grade II-A in the pay scale of 200—8—240-EB-12—300 was given the highest pay of this grade Rs 300 basic. His fixation is admitted as rectified from 1st November, 1969 at Rs 232 instead of Rs 200.
- (vi) That under the above facts it becomes clear that Shri Chuni Lal, Head Cashier's service in the Institution is admitted from 3rd May, 1956 on the same very job with the same nature of duty and responsibility. The fixation in the pay scale of Rs 200—8—240-EB-12—300 is also admitted as rectified starting on 1st November, 1960 at Rs 232 instead of Rs 200.
- There appears no ground for the Management of this Institution to delay the payment of his arrears from 1st November, 1960 to 31st May, 1967. When verbally the Management had also assured him directly as well as through the responsible person admitting his claim justified.
- (vii) That the claim of arrears of Shri Chuni Lal, Cashier for the period stated above amounts to Rs 4,595 with reserving his rights in case of any error or omission detailed as below :—

A Period	Salary paid	Salary Demanded	Difference
	Per mensem	Per mensem	
1st November, 1960 to 31st October, 1961	200	232 32 × 12	384
1st November, 1961 to 31st October, 1962	208	240 32 × 12	384
1st November, 1962 to 31st October, 1963	216	252 36 × 12	432
1st November, 1963 to 31st October, 1964	224	264 40 × 12	480
1st November, 1964 to 31st October, 1965	232	276 44 × 12	528
1st November, 1965 to 31st October, 1966	240	288 48 × 12	576
1st November, 1966 to 31st October, 1967	264	300 36 × 7	252
(B) Difference of House Rent at 10 per cent for the period 1st April, 1960 to 31st May, 1967 lesser paid on the earning salary of the period amounting to Rs 1,686		..	159-60
(C) Difference of Extra Wages of the period 1st November, 1960 to 31st May, 1967 on the rectification of the salary month-wise approximately comes to Rs 600		..	600-00
(D) Bonus and incentive bonus (lesser paid year to year earning on the basis it has been paid from the period 1960 to 1967) Approximately comes to		..	800-00
Total		..	4,595-60

Another claim statement was filed on 30th May, 1969 by Shri Raghbir Singh, Secretary, Textile and Engineering Workers Union, Panipat, wherein it was urged with regard to the demand covered by item No. 2 of the reference stated above that there were no set principles or rules for the allotment of the quarters in the Industrial Housing Colony which was based upon favouritism and to avoid the same sound representation should be given to the workmen in this matter. Nothing was said with regard to the demand No. 1 for want of necessary authority from Shri Chuni Lal the workman concerned.

In the written statement filed on behalf of the management on 13th October, 1969 both the demands, the subject matter of the reference, were disputed. It was urged that Shri Chhabra who had been up-graded from clerical grade IIA to grade I with effect from 1st June, 1970 was not entitled to the benefit of his past service of four years while fixing his pay on 1st November, 1960 under any rule or principle of fixing of pay involved by the Wage Board nor were there any orders of the chairman whereby the said claim was alleged to have been accepted.

It was further urged that the audit party appointed by the Cooperative Department, Haryana had objected to the re-fixation of pay of Shri Chhabra from Rs 330 to Rs 350 with effect from 1st November, 1967 and the management had been asked to recover the arrears of pay received by him in excess at Rs 20 per mensem.

Shri Chhabra concerned workman made his statement on 27th October, 1969 that his demand for arrears of wages as per item No. 1 of the term of reference was based upon the order of the General Manager and not upon the recommendation of the Wage Board and he wanted only the implementation of the order of the General Manager which itself was based on the order of the Chairman. However, the issue for determination with regard to the claims of Shri Chhabra was precisely the same as per item No. 1 of the terms of reference. My learned predecessor framed the following issue with regard to the demand No. 1 of the workmen pertaining to the allotment of houses in the Industrial Housing Colony.

Whether the dispute with regard to the policy which should be followed in regard to the allotment of houses in Industrial Housing Colony of the respondent would fall within the definition of the industrial Disputes and whether this Tribunal had jurisdiction to adjudicate upon this dispute ?

On 11th May, 1970, it was stated by Shri C.S. Rana, Deputy General Manager of the respondent mills that the allotment of the houses had not been made in consultation with the union and their consent had not been obtained before making the allotment.

The attention of my learned predecessor was drawn by the parties to the provisions of clause (U) of the Certified Standing Orders wherein it has been laid down that the question of housing accommodation including water and light facility should be decided by collective bargaining between the management and the union(s) and in the event of dispute by arbitration or adjudication. The question of the jurisdiction of the Tribunal in the matter was, however, raised and my learned predecessor framed the following additional issue on 11th May, 1970.

Whether this Tribunal has jurisdiction to lay down the procedure with regard to the allotment of houses when the procedure with regard to the allotment has already been made in clause (U) of the Certified Standing Orders ?

Shri Madhu Sudan Saran Cowshish authorised representative of the workmen stated that the allotment of houses had since been made without consulting the union and mostly to the favours of the management, the same had to be set-aside being in violation of the provisions of clause (U) of the Certified Standing Orders. Shri Raghbir Singh, Secretary, Sugar Mills Mazdoor Sabha, also took up the same stand with regard to the allotment of the houses.

Shri Chhabra examined two witnesses in support of his claim covered by item No. 1 of the reference, namely, Doctor Parma Nand, Ex. M.L.A., W.W.1, Shri Tara Chand, General Secretary, Karamchari Union Sugar Mills, Panipat, W.W. 2 and made his own statement as W.W. 3. It was deposed by him that he had been working in the Sugar Mills since 3rd May, 1956, but he had not been given the benefit of his previous service while fixing him in grade. In accordance with the Wage Board Award of 1960. Feeling aggrieved he had made a number of representations to the authorities which were Ex. W.W. 1/2 to Ex. W.W. 1/34 on record. It was further stated by him that he was entitled to the amount of Rs 4,595 as per details given in the statement, Ex. W.W. 1/1 on account of difference of extra Wages, bonus and house-rent by re-fixation of his pay with effect from 1st November, 1960 after taking into consideration his previous service from 3rd May, 1956 to 1st November, 1960. In cross-examination he admitted that on 1st November, 1960 his grade was Rs 150—10—250 as under the Wage Board recommendations he had been placed in clerical grade 2A which was Rs 200—8—240—12—300. On further cross-examination he expressed his inability to cite any instance of a workman who might have been given extra increments for his previous service at the time of fixing his pay in accordance with the recommendations of the Wage Board. In answer to another question he deposed that he had joined service with the respondent mills in 1956 and taken into consideration his previous service for 4 years, his pay under the recommendations of the Wage Board should have been fixed at Rs 232 per mensem as on 1st November, 1960 and not at Rs 200 per mensem as wrongly fixed by the management and hence his representation for payment of the difference of the wages from 1st November, 1960 to 31st May, 1967 after he had been correctly fixed at Rs 300 per mensem in grade I of Rs 250—20—350—(EB)—475 with effect from 1st June, 1967.

Doctor Perma Nand, W.W. 1 who had been one of the Directors in the respondent mills from 1967 to 1969 deposed that the General Manager was personally of the view that the aforesaid claim of Shri Chuni Lal Chabra was genuine although this matter was not brought before the Board of Directors. Shri Tara Chand, W.W. 2 stated that Shri Chabra had been an active member of the Karamchhari Union Sugar Mills, Panipat, on account of which he was suspended from service almost every year but later on reinstated with full back wages. He further stated that the union had to fight for the revision of the grades of the workmen and the same were ultimately revised in accordance with the recommendations of the Wage Board in 1960 and Shri Chabra had made representations for the correct fixation of his pay.

The management has produced no evidence in the case except for the copy of the aforesaid order of the General Manager whereby Shri Chabra had been fixed at Rs. 330/-basic plus allowance with effect from 1st June, 1967 in the grade of Rs. 250—20—350—(EB)—475, etc.

Arguments have been addressed on both sides and I have given a very considered thought to the facts on record.

As already observed, Shri Chabra, the concerned workman, had joined service with the respondent mills from its very beginning in 1956. The employees of the mills had been fighting for the revision of their grades which were ultimately revised in accordance with the recommendations of the Wage Board with effect from 1st November, 1960. Shri Chabra was working in the grade of Rs. 150—10—250 at that times and under the recommendations of the Wage Board he had been fixed in the revised grade 2A which was Rs 200—8—240—12—300 fixing his pay at the minimum of Rs. 200/-. His grievance was that taking into consideration his previous service he should have been entitled to four increments thus raising his pay to Rs. 232/-with effect from 1st November, 1960. Feeling aggrieved, he had made a number of representations to the authorities concerned and according to him the Chairman of the Board of Directors of the respondent mills had finally conceded his above claim and he had accordingly been fixed at Rs. 330/-with effect from 1st June, 1967 in clerical grade I which was Rs 250—20—350—(EB)—475. However, the the difference of pay, etc. on account of the 4 increment due to him for the period of his service before 1st November, 1960 had still been denied to him and hence his claim for the amount due as per item No. 1 of the present reference. The learned representative of the management has contested the claim of Shri Chabra mainly on the ground that the recommendations of the Wage Board had to take effect from 1st November, 1960 and not retrospectively from the date of the entry into service of the workmen concerned and, therefore, Shri Chabra had been properly fixed at Rs 200/-under the revised grade on 1st November, 1960. As already pointed out, Shri Chabra has not based his claim on the recommendations of the Wage Board, but on the orders of Chairman and the General Manager of the respondent mills whereby his above claims is alleged to have been conceded. His statement of 27th October, 1969 is quite clear on the point. It is therefore, unnecessary to go into the question whether he was entitled to be fixed at Rs 232/-with effect from 1st November, 1960 in strict compliance of the recommendations of the Wage Board or not. His claim finds full support in the testimony of Dr. Parma Nand, W. W. 1, who had been one of the Directors of the respondent mills from 1967 to 1969. According to him, the General Manager had personally conceded the claim of Shri Chabra for the grant of four increments for his previous service. The said order of the Chairman has not been produced by the management and neither the Chairman nor any other responsible officer has come forward to make a statement on oath to contradict the above version of Shri Chabra.

There is another aspect of the case which deserves considerations here. Shri Chabra was admittedly fixed at Rs 330/-with effect from 1st June, 1967 in grade. I which was Rs 250—20—350—(EB)—475. His pay in the grade of Rs 200—8—240—12—300 on 1st June, 1967 would be Rs 252/-without giving him the benefit of the previous service. It has not been explained as to how he was fixed at Rs. 330/-with effect from 1st June, 1967 in grade I described above which was possible only if his claim for extra increments for his previous service had been conceded. By virtue of the admission of his claim by the Chairman, as per the statement of Dr. Parma Nand, W. W. 1, referred to above, he was entitled to four increments on account of his previous service while fixing his pay in grade 2A with effect from 1st November, 1960 and he should have been fixed at Rs. 232/-per mensem instead of giving him the minimum of Rs. 200/- in the grade of Rs. 200—8—240—12—300. This would entitles him to the amount of Rs. 4,595/- as per details given in the statement, Ex. W.W.1/1 on account of the difference in wages, bonus, house-rent, ect. for the period from 1st November, 1960 to 31st May, 1967. The correctness of the statement Ex. W.W.1/1 has not been challenged on behalf of the management. The learned representative of the management has not been able to satisfy me to the contrary and since the best evidence, oral as well as documentary, in the case has been with held, the presumption is irresistible that if produced that evidence would have supported the claim of the concerned workman. It will not be out of place to consider here that taking into consideration the long record of service of the present workman who had joined the respondent mills from its very inception, the Chairman and the General Manager were fully competent to accede to his above demand for the grant of four increments while fixing his pay on 1st November, 1960 under the revised grade and there is nothing to indicate that the recommendations of the Wage Board stood in their way in any manner. If that were so, he could not have been granted extra increments while fixing his pay at Rs 330 in grade I of Rs 250—20—350—EB—475. This order of the General Manager has not been challenged and he has been paid accordingly. This further strengths his claim for increments for the previous period which as already observed had been conceded by the Chairman and the General Manager of the respondent mills. Issue No. 1 is accordingly decided in favour of the workmen and against the management.

The management has no case whatever with regard to the demand of the workmen covered by item No. 2 of the reference. According to the provisions of clause (U) of the Certified Standing Orders of the respondent mills, "the question of housing accommodation including water and light facility shall be decided by collective bargaining between the management and the union and in the event of the dispute by arbitration or adjudication. As admitted by Shri C.S. Rana, Deputy General Manager of the respondent mills, the allotment of the houses to which objections have now been raised on behalf of the workman has not been made either in consultation or with the consent of the representatives of the union(s). The allotment of the houses having thus been made in violation of the clear requirements of the Certified Standing Orders is not binding upon the workmen and they well within their rights to challenge the same. It has not been shown how this matter which relates to one of the conditions of service of the workmen is outside the jurisdiction of this Tribunal especially when there is a specific provision in the Certified Standing Orders that in the event of dispute the question of housing accommodation, etc., can be decided by arbitration or adjudication. The reference made by the Government in this behalf is, therefore, perfectly valid and the allotment of the houses made by the management which is patently wrong and illegal has to be set aside. The issues covered by item No. 2 of the reference are, therefore, decided in favour of the workman and against the management.

In view of my above findings on the issues involved in the case Shri Chuni Lal Chabra is entitled to the amount of Rs 4,595 as arrears on account of difference of pay, house-rent, bonus, for the period from 1st November, 1960 to 31st May, 1967 and the same shall be paid to him by the management. The allotment of the houses in the Industrial Colony wrongly made by the management shall be set aside and fresh allotment shall be made in strict compliance of the provisions of the Certified Standing Orders of the respondent mills referred to above. The award is accordingly made. There shall, however, be no order as to costs.

The 2nd June, 1971.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 560, dated the 2nd June, 1971

Forwarded (four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 2nd June, 1971.

O.P. SHARMA,  
Presiding Officer,  
Industrial Tribunal, Haryana, Faridabad.

No. 6295-4-Lab-71/19795.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Richer Tractor India Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 14 of 1971

*between*

SHRI ROSHAN LAL, WORKMAN, C/O PRESIDENT, RICHER TRACTOR EMPLOYEES UNION,  
FARIDABAD AND THE MANAGEMENT OF M/S RICHER TRACTOR INDIA LTD.,  
FARIDABAD

*Present—*

Sh. R. N. Rai and Sh. Bhim Singh, for the workman.

Sh. R. C. Sharma, for the management.

#### AWARD

Shri Roshan Lal was working as a Milling Machine Operator in M/s Richer Tractors India Ltd., Faridabad on a monthly salary of Rs 200 per mensem. His services stood terminated on account of his alleged absence from duty without intimation to the management. The workman is aggrieved by reason of the termination of his services and accordingly the Governor of Haryana, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/3-A/70/2831, dated 21st January, 1971 :—

"Whether the termination of services of Sh. Roshan Lal was justified and in order ? If not ; to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. The case of the workman is that he got half day leave on 14th August, 1970 and went to his native village in Grewal District because 15th August, 1970, 16th August, 1970 and 17th August, 1970 were holidays and he fell ill at home and so applied for leave from 18th August, 1970 to 25th August, 1970 but illness continued and so he applied for extension of leave and reported for duty on 3rd September, 1970 but was not allowed to resume duty.

The version of the management on the other hand is that the application of the workman for half day leave on 14th August, 1970 was rejected but he absented himself from duty in total defiance of the orders of the management and thereafter nothing was heard about him and he continued to remain absent without any information and sanction of leave and accordingly his name was struck off from muster rolls after waiting for him for 10 days. It is, therefore, pleaded that there was no termination of service by the management and the order of reference is invalid. The pleadings of the parties gave rise to the following issues :—

(1) Whether the reference is not valid ?

(2) Whether the workman has himself abandoned his service and, if not, whether the termination of services of Shri Roshan Lal was justified and in order. If not, to what relief is he entitled ?

These issues can be conveniently taken up together. Shri Prem Parkash, Machine Shop Supervisor says that the workman gave him application Ex. M. W. 1/1 in the second shift which is from 4.30 P. M. to 1.00 P. M. (Night) on the ground that he had pain in his eyes and he could not work. The witness says that the application was given to him at about 8.30 p.m., but he did not recommend the leave because the reason for leave did not appear to him to be genuine but is till the workman went away. The question whether the application for grant of half day's leave for 14th August, 1970 was or was not justified on the ground of alleged pain in the eyes is not very important. The main question for consideration is whether the workman was actually ill from 18th August, 1970 to 31st August, 1970 as alleged by him and was, therefore, unable to attend and he had submitted the application for leave under postal certificate from 18th August, 1970 to 25th August, 1970 and then again got it extended. The case of the management is that they simply received an application Ex. M. W. 2/1 on 28th August, 1970 in which the workman simply stated that he was ill and, therefore, he may be granted sick leave. The workman did not even state to what date he wanted leave. This application was not considered by the management on the ground that the name of the workman had already been struck off from the muster rolls on the ground of his absence for more than 10 days.

After carefully considering the evidence of the workman, I am of the opinion that there was no sufficient ground for his absence from 19th August, 1970 to 2nd September, 1970. In the first place the workman had no business to go to his village if he had actually pain in his eyes and, therefore, could not work in the second shift on 14th August, 1970. Secondly it does not appear that the medical certificate Ex. W. W. 1/1 which is to the effect that the workman was ill from 16th August, 1970 to 31st March, 1970 is genuine. According to the evidence of the workman he fell ill in his village and, therefore, submitted an application for sick leave from 18th August, 1970 to 25th August, 1970 while the medical certificate Ex. W. W. 1/1 is to the effect that the workman was suffering from pneumonia and was, therefore, unable to work for a period of 16 days from 16th August, 1970 to 31st August, 1970. If the doctor recommended 16 days rest in the very first instance then it is not understood why the workman asked for leave in the first instance from 18th August, 1970 to 25th August, 1970. The application Ex. M. W. 2/1 is also dated 18th August, 1970 and surprisingly the workman in this application does not even mention the date upto which he was in need of rest on account of his alleged illness. The management could not possibly consider such a leave application. Thirdly, there is also no reason as to why the workman did not send his original application under registered cover. I have no reason to disbelieve the version of the management that they did not receive any intimation from the workman explaining the cause of his absence till 28th August, 1970. The workman was, therefore, rightly considered as absent from duty without any intimation for a period of more than 10 days and under the provisions of Certified Standing Orders of the respondent company he was deemed to have abandoned his service. The workman is not entitled to any relief. I give my award accordingly. No order as to costs.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.

Dated the 2nd June, 1971.

No. 1040, dated Rohtak, the 4th June, 1971.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Haryana, Rohtak.